

REMARKS

Claims 1-23 are pending. No new matter has been added by way of the present amendments. For instance, the claims have been amended to remove the recitation of "polyester" and replace it with "polymer". Additionally, the "polymer layer" according to the present invention has been specifically defined as comprising at least a thermoplastic polymer, an elastomeric emulsion, a water repellant and a plasticizer. This subject matter is supported by originally filed claim 14. Accordingly, no new matter has been added.

Additionally, Applicants respectfully submit that no new issues have been raised by way of the present submission which would require additional search and/or consideration on the part of the Examiner. In particular, Applicants have simply amended the claims to remove the issue with respect to the "polyester". Additionally, Applicants have amended the "polymer layer" so as to be defined as according to originally filed claim 14. The subject matter of claim 14 has already been searched and considered, thus, the inclusion of the subject matter into the independent claims does not raise any new issues which would require additional search and/or consideration on the part of the Examiner.

In the event that the present submission does not place the application into condition for allowance, entry thereof is

respectfully requested as placing the application into better form for appeal.

In view of the following remarks, Applicants respectfully request that the Examiner withdraw all rejections and allow the currently pending claims.

Interview Conducted on April 12, 2005

Applicants take this opportunity to thank the Examiner for Interview conducted on April 12, 2005. Pursuant to this Interview, Applicants are submitting the following amendments and remarks.

Issues Under 35 U.S.C. § 112, Second Paragraph

The Examiner has rejected claims 1-22 under 35 U.S.C. § 112, second paragraph, for the reasons recited at pages 5 and 6 of the outstanding Office Action. Applicants respectfully traverse.

The Examiner has asserted the term "polyester" is indefinite. Applicants now clarify that the original "polyester" layer or "polyester" material according to the present invention is not limited to conventional polyesters (condensation products of diols and diacids), but in fact can contain many polymers including polymers such as those listed in claim 15. Accordingly, the claims have been amended to recite a "polymer" layer. Thus, this rejection is moot. Reconsideration and withdrawal thereof are respectfully requested.

Issues Under 35 U.S.C. § 103(a)

The Examiner has rejected claims 1-23 under 35 U.S.C. § 103(a) as being obvious over the combination of EP 0 351 085 A2 (hereinafter EP '085) or DeVries et al., U.S. Patent No. 4,021,591 (hereinafter DeVries '591), both in view of Coleman, U.S. Patent No. 5,741,387 (hereinafter Coleman '387). Applicants respectfully traverse this rejection.

Applicants respectfully submit that the prior art, whether taken individually or in combination, fails to suggest or disclose the presently claimed subject matter. In particular, each of independent claims 1, 2, 18, 19 and 22 make use of a specific polymer layer wherein said polymer layer comprises the following ingredients: (a) a thermoplastic polymer, (b) an elastomeric emulsion, (c) a water repellant, and (d) a plasticizer.

However, none of the references cited by the Examiner suggests or disclose a specific polymer layer which contains each of a thermoplastic polymer, an elastomeric emulsion, a water repellant, and a plasticizer. In particular, the Examiner's attention is drawn to the fact that the "elastomeric emulsion" is particularly absent from the disclosure of the prior art. Accordingly, Applicants submit that the Examiner has failed to present a valid *prima facie* case of obviousness with respect to the present claims.

Accordingly, the Examiner is respectfully requested to withdraw all outstanding rejections and allow the currently pending claims.


If the Examiner has any questions or comments, please contact Craig A. McRobbie, Reg. No. 42,874 at the offices of Birch, Stewart, Kolasch & Birch, LLP.

Pursuant to the provisions of 37 C.F.R. §§ 1.17 and 1.136(a), the Applicants hereby petition for an extension of one (1) month to June 10, 2005 in which to file a reply to the Office Action. The required fee of \$60.00 is enclosed herewith.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By  #42,874

Marc S. Weiner, #32,181


MSW/CAM/bsh

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000